

MAY 23 2006**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS****NOT FOR PUBLICATION****UNITED STATES COURT OF APPEALS****FOR THE NINTH CIRCUIT**

KENNETH AUGUSTINE,

Plaintiff - Appellant,

v.

MARIN COUNTY,

Defendant - Appellee.

No. 05-16145

D.C. No. CV-04-00624-VRW

MEMORANDUM^{*}

Appeal from the United States District Court
for the Northern District of California
Vaughn R. Walker, District Judge, Presiding

Submitted May 15, 2006 ^{**}

Before: B. FLETCHER, TROTT, and CALLAHAN, Circuit Judges.

Kenneth Augustine appeals pro se from the district court's summary judgment in favor of Marin County in his action alleging he was improperly arrested and detained in violation of 42 U.S.C. § 1983 and California law. We

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's grant of summary judgment. *Case v. Kitsap County Sheriff's Dep't*, 249 F.3d 921, 925 (9th Cir. 2001). We review for abuse of discretion the denial of leave to amend. *Bonin v. Calderon*, 59 F.3d 815, 845 (9th Cir. 1995). We affirm.

The district court properly granted summary judgment to the County on Augustine's claims that he was subjected to false imprisonment, because the evidence shows he was detained pursuant to a facially valid traffic bench warrant. *See Erdman v. Cochise County*, 926 F.2d 877, 882 (9th Cir. 1991) (arrest "pursuant to a facially valid bench warrant" not a constitutional violation); Cal. Penal Code § 847(b) (no civil liability for false arrest or imprisonment where officer "had reasonable cause to believe the arrest was lawful").

Because the arresting officers were also entitled to rely on the facially valid warrant, the district court did not abuse its discretion by denying Augustine leave to amend to add the arresting officers as defendants. *See Bonin*, 59 F.3d at 845 (futility alone can justify the denial of leave to amend).

Augustine's remaining contentions lack merit.

AFFIRMED.